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Appeal from State Corporation Commission.

Proceedings by the Commonwealth of Virginia against the General Railway Signal Company. From an order of the State Corporation Commission fining defendant, it appeals. Affirmed.

McGuire & Wood, of Rochester, N. Y., *Jos. C. Taylor*, of Richmond, and *Hugh Satterlee*, of Rochester, N. Y., for appellant.

The Attorney General, for the Commonwealth.

GREENWOOD *v.* ROYAL NEIGHBORS OF AMERICA.

Jan. 13, 1916.

[87 S. E. 581.]

1. Appeal and Error (§ 997*)—Review—Evidence—Demurrer to Evidence.—In reviewing the evidence, on writ of error to review a judgment on defendant's demurrer to plaintiff's evidence, the court must accept as established by plaintiff whatever the jury, as reasonable men, might have concluded from the evidence.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4023, 4024; Dec. Dig. § 997.* 4 Va.-W. Va. Enc. Dig. 524.]

2. Insurance (§ 825*)—Fraternal Benefit Insurance—Breach of Warranty of Health—Question for Jury.—In an action against a fraternal beneficiary society on a benefit certificate, whether decedent, when applying for reinstatement, was not in good health, held for the jury under the evidence.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 2009; Dec. Dig. 825.* 2 Va.-W. Va. Enc. Dig. 347.]

3. Insurance (§ 726*)—Fraternal Benefit Insurance—Construction of Certificate.—The beneficiary of a fraternal benefit society's certificate is entitled to a liberal and favorable interpretation of the contract; for, although fraternal benefit societies are usually dealt with more liberally in some respects than ordinary insurance companies, they are subject to the same rules of law and construction as other companies in regard to their contracts for life insurance.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1870-1872; Dec. Dig. § 726.* 2 Va.-W. Va. Enc. Dig. 347.]

4. Insurance (§ 723*)—Fraternal Benefit Insurance—Warranty of "Good Health"—Breach.—Where a member of a fraternal benefit society allowed her certificate to lapse for nonpayment of dues, and thereafter, applying for reinstatement, warranted, under the terms of the certificate, that she was in good health, being, in fact, without knowledge that she was suffering from valvular disease of the heart, there was no breach of her warranty of "good health," a phrase

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

which, used in its common and ordinary sense by a person speaking of his own condition, implies a state of health unimpaired by any serious malady of which the person himself is conscious; the warranty covering only knowingly false statements relating to health.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1859-1865; Dec. Dig. § 723.* 2 Va.-W. Va. Enc. Dig. 347.]

Error to Law and Chancery Court of City of Roanoke.

Action by T. C. Greenwood against the Royal Neighbors of America. To review a judgment rendered against him on defendant's demurrer to evidence, plaintiff brings error. Judgment reversed, demurrer to the evidence overruled, and judgment entered for plaintiff.

R. H. Willis, of Roanoke, for plaintiff in error.

Poindexter & Hopwood, of Roanoke, for defendant in error.

NEW YORK LIFE INS. CO. *v.* FRANKLIN.

Jan. 13, 1916.

[87 S. E. 584.]

1. Appeal and Error (§ 361*)—Petition for Writ of Error—Improvident Award—Motion to Dismiss—Disposition.—Where the motion of defendant in error to dismiss the writ as improvidently awarded, on the ground that the petition contained no sufficient assignment of error, and was therefore violative of Code 1904, § 3464, regulating the matter, was not without merit, but the right of appeal was, when the motion was first called to the attention of the court, barred by limitation, the discussion in the petition will be treated as a substantial compliance with the statute.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1941-1959; Dec. Dig. § 361.* 1 Va.-W. Va. Enc. Dig. 503.]

2. Insurance (§ 146*)—Life Insurance—Construction of Policy—Ambiguity.—The words "Policy written and premium payable semi-annually," which were not printed in the original form of the application for life insurance, but were evidently stamped upon it by the company after the policy had been written, were without effect to render the contract embodied in the policy and application ambiguous.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 292, 294-298; Dec. Dig. § 146.* 9 Va.-W. Va. Enc. Dig. 346.]

3. Insurance (§ 141*)—Life Insurance—"Antedating" Policy—Legality.—Where an insurance company, in antedating its policy, making it, for the purpose of fixing maturity dates for premiums, relate

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.